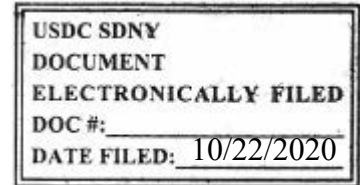


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



Rinaldo Pierno,

Plaintiff,

—v—

Fidelity Brokerage Services, LLC,

Defendant.

18-cv-3384 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On January 16, 2019, the Court granted the Defendant's motion to compel arbitration and stayed this action pending the outcome of that arbitration. Dkt. No. 34. The Plaintiff has informed the Court that no arbitration proceedings have commenced because he refused to participate in arbitration, and that he continues to refuse to participate in any arbitration. *See* Dkt. Nos. 36, 42.

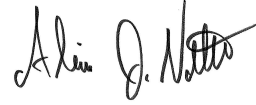
Considering the factors set out in *LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206 (2d Cir. 2001), the Court finds that dismissal for failure to prosecute under Federal Rule of Civil Procedure 41(b) is appropriate. Well over a year has passed since the Court ordered arbitration, and, in the face of an order warning that the action may be dismissed for failure to prosecute, the Plaintiff continues to maintain that he has no intention of ever arbitrating his claims. The Court therefore dismisses the action. *See, e.g., Dhaliwal v. Mallinckrodt PLC*, No. 18-cv-3146 (VSB), 2020 WL 5236942, at *2 (S.D.N.Y. Sept. 2, 2020) (dismissing for failure to prosecute where plaintiff did not initiate arbitration following order compelling arbitration); *Shetiwy v. Midland Credit Mgmt.*, No. 12-cv-7068 (RJS), 2016 WL 4030488, at *2 (S.D.N.Y. July 25, 2016) (same), *aff'd*, 706 F. App'x 30 (2d Cir. 2017). The Clerk of Court is respectfully directed to close the

case.

The Clerk of Court is respectfully directed to mail a copy of this Order to the Plaintiff and note the mailing on the public docket.

SO ORDERED.

Dated: October 22, 2020
New York, New York

A handwritten signature in black ink, appearing to read "Alison J. Nathan", is positioned above a horizontal line.

ALISON J. NATHAN
United States District Judge